

NATURAL RESOURCES COMMISSION

Meeting Minutes

July 11, 2007

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at the Hearing Room of the Town House, 22 Monument Square, Concord, MA at 7:00 p.m. on Wednesday, July 11, 2007. The following Commissioners were present: Chair, Alexander Easterday; Paul Feshbach-Meriney; Montgomery Lovejoy; Jamie Bemis, Steve Verrill and Associate Commissioner, George Lewis. Delia Kaye, Natural Resources Administrator; and Cynthia Gray, Natural Resources Administrative Assistant were also present.

CONTINUANCES:

THOREAU SCHOOL – 29 Prairie Street / NOI – DEP File #137-933

Susan Erickson, a fourth-grade teacher at the Thoreau School, appeared with Chris Sgarzi of Sgarzi Associates, Inc. This project involves the construction of an ADA/AAB accessible trail on the south side of Thoreau School within Bordering Vegetated Wetland, Bordering Land Subject to Flooding, the 200-foot Riverfront Area of the Assabet River, and 100 feet of Bordering Vegetated Wetland and Bank.

Susan Erickson presented the revised plan together with correspondence received from Diana Rigby, Assistant Superintendent of the Concord Public Schools in support of this project. The Concord Public Schools Maintenance Department has committed to aiding in routine maintenance of the Thoreau Assabet River Trail. The trail and compensatory storage area were flagged after the recent site walk with the Commission.

Alexander Easterday asked if a representative would be on site during construction, possibly John Shipe, the design engineer. A Special Condition of this project would be to have a project manager specified for the project.

Delia Kaye indicated that the grading near the fence appeared likely to affect tree roots. The Applicant will clarify this for the next meeting. It is the intent to not impact any trees. With regard to the compensatory storage area, Delia Kaye asked whether any trees would be removed or tree roots impacted, and Chris Sgarzi indicated that the goal was not to cut down any trees. To date, there was no proposed planting plan.

Alexander Easterday indicated that a planting plan would need to be submitted to the Division of Natural Resources Administrator for approval. Delia Kaye noted that the project members could work with Hasso Ewing with regard to invasives and replantings.

Jamie Bemis questioned if they were considering the use of herbicides or the use of a weed whip.

Chris Sgarzi noted approval was received from the Planning Board. The design entails the use of a helical pier system.

Alexander Easterday asked about a contingency plan.

Susan Erickson indicated that the management plan would include maintenance of benches, tables, and a temporary fold-up table.

Montgomery Lovejoy suggested that stone dust be installed to an elevation that is not routinely subject to flooding.

Delia Kaye noted that catwalks would be more appropriate and less likely to cause erosion.

Chris Sgarzi stated concern of the cost of a catwalk. Chris Sgarzi suggested paver stone as it would give good definition and would be easy to maintain. A fiber woodchip product would float away. Stone dust compacts to a hardened surface.

Delia Kaye suggested that, although a natural base was preferred as long as it met the requirements of the ADA, the stone dust could be installed on a one-year trial basis.

Alexander Easterday suggested evaluating the situation of one year to see what erosion takes place as certain sections may just need to be replaced. Alexander Easterday suggested showing changes in the plan now instead of making Special Conditions to the permit.

Bob Hale, 135 Hillside Avenue, expressed concern with the erosion of stone dust. He suggested a chip seal surface. Delia Kaye asked Bob Hale to share information on the chip seal product with the Applicant.

Delia Kaye noted that Building Commissioner, John Minty, had concerns with the flood plain calculations and that he was in need of additional information from the Applicant. She suggested that the Applicant do away with the compensatory storage under the boardwalk all together. Revised plans, a mitigation plan, and revised floodplain calculations must be received by the NRC office in one week.

This hearing was continued to the July 25, 2007 meeting.

NEW APPLICATIONS

FEIGH – 149 Spencer Brook Road / RDA 07-10

Bob Hale of Hale Corporation appeared. This project involves installing a patio to the rear of an existing single-family dwelling and installing a drainage pipe to discharge roof runoff, and regarding and reseeded disturbed areas within 100 feet of Bordering Vegetated Wetlands.

Bob Hale noted that the area behind the barn would be regraded and reseeded.

Alexander Easterday asked about construction methodology.

Bob Hale indicated that a bobcat and a one-ton dump truck would be used within 15 feet of the single-family dwelling.

Alexander Easterday noted that the NRC would make no determination of resource area boundaries. A preconstruction site visit would be required. The Applicant can use filter mitts in place of silt fence if desired.

Paul Feshbach-Meriney moved to issue a Finding that the Commission make no determination as to the resource area boundaries. Steve Verrill seconded. All so voted.

Jamie Bemis moved to issue a Negative Determination #3 with a Special Condition for a preconstruction site visit. Steve Verrill seconded. All so voted.

MIDDLESEX SCHOOL – 1400 Lowell Road / RDA 07-11

Dan Pereira and Andy Truman of Samiotes Consultants, Inc. appeared. This project involves replacing an existing steam line between the Bryant-Paine House and the Clay House at the Middlesex School within 100 feet of the Buffer Zone of Bordering Vegetated Wetlands associated with Bateman's Pond.

Dan Pereira made a presentation to the Commission and noted that 72 feet was the closest point of disturbance.

Alexander Easterday suggested bringing the straw wattles on the other side of a large tree to minimize the disturbed area. A preconstruction site visit would be required. The Commission makes no determination of resource area boundaries.

Montgomery Lovejoy moved to issue a Finding that the Commission make no determination of the resource area boundaries and to issue a Negative Determination #3 with Special Conditions. Paul Feshbach-Meriney seconded. All so voted.

KENNEALLY – 103 Alden Road / NOI, DEP File. #137-937

Scott Smyers of Oxbow Associates appeared together with Applicant, Janet Kenneally. This project involves replacing a septic system within 100 feet to Bordering Vegetated Wetlands.

Scott Smyers indicated that there would be no building addition, just a septic system upgrade. The closest point of disturbance is 53 feet with approximately 1,500 square feet of work in the Buffer Zone which would require some regrading.

Alexander Easterday noted that the Commission had no issues regarding the wetland line.

Delia Kaye requested that one large Asiatic bittersweet on the property be removed, as noted between wetland flags 1 and 2 on the plan. The Applicant agreed.

This hearing was continued to July 25, 2007 at which time the Commission expects to close the hearing and issue an Order of Conditions.

LEVINSON – 124 Nashoba Road / NOI, DEP File #137-939

Applicants Richard Levinson and Betsy Levinson appeared together with Drew Garvin of R. Wilson and Associates, Inc. This project involves constructing an addition to the rear of an existing single-family dwelling and two sona tubes on concrete footings in the front of the dwelling, within 100 feet of Bordering Vegetated Wetlands.

Applicants were before the Commission approximately three years ago for a septic upgrade.

Alexander Easterday asked about the extent of the limit of work and what construction access would be used as the property was lawn.

Drew Garvin indicated that a backhoe would be used and they would extend hay bales on the project site.

Alexander Easterday noted that silt fence might be used instead of hay bales, because of the flatness of the area. Delia Kaye recommended filter mitts for this project, which would also constitute a visual barrier. The NRC would make no determination of resource area boundaries. A draft Order of Conditions would be drafted for the next scheduled meeting.

This hearing was continued to July 25, 2007 at which time the Commission expects to close the hearing and issue an Order of Conditions.

OTHER BUSINESS

FR Realty Proposal – Convey 1.03+/- acres to Town of Concord for Conservation and Open Space Purposes.

Thomas Falwell, Esq. of Comins & Newbury LLP appeared on behalf of Kevin Hurley of Hurley Associates, Inc. Thomas Falwell, Esq. indicated that this matter had been placed on the Board of Appeals agenda for June 12, 2007. An ANR plan has been submitted to the Planning Board.

Montgomery Lovejoy asked about the extent and nature of the Open Space Easements.

Thomas Falwell, Esq. indicated that this was part of the River Bend approval and that the Planning Board had voted to support it.

Alexander Easterday noted the property link and asked why not do it now?

Delia Kaye noted that the property is adjacent to the StarMet site and that testing had been done up to the property line which indicated that contaminants did not extend onto the subject parcel. Delia Kaye noted that there were trails on the site that were of value from an Open Space perspective.

Thomas Falwell, Esq. asked for the NRC to recommend to the ZBA for the July 12th meeting. Thomas Falwell, Esq. noted that this was subject to the ultimate approval of the Board of Selectman.

Montgomery Lovejoy moved to make a recommendation to the ZBA that the NRC vote in favor of the ZBA issuing a Special Permit of the Town's acceptance of the land as conservation land. Jamie Bemis seconded. All so voted.

NEW APPLICATIONS (continued)

B & C ASSOCIATES – Draper Labs, 711 Virginia Road / RDA #07-12

Applicant, Dave Crossman of B & C Associates appeared. The Applicant has requested that the Natural Resources Commission determine whether the area depicted on plans east of Draper Laboratories is an area subject to jurisdiction of the Wetlands Protection Act.

Dave Crossman noted that during heavy rain, there is some flow in the ditch, which appears to end at a catch basin parallel to the runway. There is also drainage from the parking area. The site is rife with invasive species.

After discussion, Paul Feshbach-Meriney moved to issue a Negative Determination #1 that the area described in the Request is not an area subject to protection under the Wetlands Protection Act or the Buffer Zone. Montgomery Lovejoy seconded. All so voted.

CLOSE HEARINGS/ISSUE PERMITS

Town of Concord, CPW – Main Street (Mill Brook) – DEP File #137-931

Montgomery Lovejoy moved to close the hearing. Paul Feshbach-Meriney seconded. All so voted. Paul Feshbach-Meriney moved to approved Findings A & B. Montgomery Lovejoy seconded. All so voted. Montgomery Lovejoy moved to issue a standard Order of Conditions with Special Conditions 18-44. Steve Verrill seconded. All so voted.

Goodrich Trust (Barzilli) – 68 Great Meadows Road – DEP File #137-936

Paul Feshbach-Meriney moved to close the hearing. Jamie Bemis seconded. All so voted. Montgomery Lovejoy moved to approve the Finding of no determination of wetland resource area boundaries. Steve Verrill seconded. All so voted. Montgomery Lovejoy voted to issue a standard Order of Conditions with Special Conditions 18-42. Steve Verrill seconded. All so voted.

CERTIFICATES OF COMPLIANCE

Riedel – 324 Main Street – DEP File #137-786

Jamie Bemis moved to issue a Certificate of Compliance. Montgomery Lovejoy seconded. All so voted.

Sullivan (Millwright) – 1732 Main Street – DEP File #137-458

Jamie Bemis moved to issue a Certificate of Compliance. Steve Verrill seconded. All so voted.

OTHER BUSINESS (continued)

Minutes:

Approve NRC Minutes of May 16, 2007 with minor revisions

Steve Verrill moved to approve the NRC Meeting Minutes of May 16, 2007 with minor revisions. Paul Feshbach-Meriney seconded. All so voted.

Approve NRC Minutes of June 6, 2007

Paul Feshbach-Meriney moved to approve the NRC Meeting Minutes of June 6, 2007. Steve Verrill seconded. All so voted.

Approval of NRC Minutes of June 20, 2007- tabled until next meeting

Concord Country Club – DEP File #137-699: The Applicant is requesting that the Commission allow 7th fairway regrading (approximately 150 cubic yards) and compensatory storage at the 6th fairway, be considered an Amendment to the existing Order. After discussion, the Commission agreed that an Amendment would be suitable only if minor changes were being made, and therefore recommended that a new Notice of Intent be filed for this work.

Dee Bus Enforcement Order. This matter will be kept open.

Lowell Road (Old Calf Pasture) Violation –Conservation Crew estimated that 96 trees were removed. This matter is subject to further discussion.

Wetlands Setback Policy/Commission Comments- Alexander Easterday noted that the Town of Concord has significant wetlands. Montgomery Lovejoy supports the policy as written. George Lewis noted his concerns that a policy is not enforceable (vs. a bylaw, which is). Jamie Bemis noted that to protect wetlands means protecting the buffer. Paul Feshbach-Meriney noted that it would be prudent to put in writing what the Commission has been doing for years. Steve reiterated his belief that in areas with steep banks, the 50-foot measurement should include the vertical distance instead of just the lateral distance. A formal vote would take place on Friday, July 13th at the Commission's Wetland Bylaw Meeting.

Use of Concord Conservation Land – Metal Detectors – Paul Feshbach-Meriney was not in favor of metal detectors being used on Conservation Land as the Commission and staff have no control over what a person does. Delia Kaye noted that Conservation Land is for the use and enjoyment of all. Most Commissioners are not in favor of this use on Conservation Land.

CPC Applications-September 27, 2007 is the application deadline. Jamie Bemis provided an update of the CPC meeting.

The Conservation Restriction Stewardship Committee (CRSC) wishes to draft an application for CPA funding. The Committee is in need of baseline documentation for Conservation Restrictions to maintain accurate information against which future monitoring can be compared. Photos taken during the spring and fall would be helpful and encouraged as part of the baseline documentation.

Monies may also be needed for land acquisition, and CPA funds should be explored. Several parcels of valuable land are likely to come onto the market in the near future, and having funds on hand is critical to successfully purchasing such parcels.

Our Lady Church CR Amendment-Changes made on the plan are acceptable to the Commission.

The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Delia R. J. Kaye, Natural Resources Administrator

Cynthia L. Gray, Natural Resources Administrative Assistant